

**STATE OF FLORIDA
FLORIDA HOUSING FINANCE CORPORATION**

LANDINGS AT CROSS BAYOU, LLP,

Petitioners,

DOAH CASE NO. 2012-2899
FHFC CASE NO. 2012-44UC

vs.

FLORIDA HOUSING FINANCE
CORPORATION,

Respondent.

_____ /

FINAL ORDER

This cause came before the Board of Directors of the Florida Housing Finance Corporation (“Board”) for consideration and final agency action on March 15, 2013. The matter for consideration before this Board is a Recommended Order filed pursuant to Section 120.57(1), Florida Statutes, and Rule 28-106.216, Florida Administrative Code. The Board has jurisdiction.

Petitioner timely filed its Petition for Administrative Hearing pursuant to Sections 120.569 and 120.57(1), Florida Statutes, (the “Petition”) challenging Florida Housing’s scoring of a competitor’s application for funding in the 2011 Universal Application Cycle. Florida Housing reviewed the Petition pursuant to Section 120.569(2)(c), Florida Statutes, and determined that the Petition raised disputed issues of material fact. Pursuant to Section 120.57(1), Florida Statutes, a

FILED WITH THE CLERK OF THE FLORIDA
HOUSING FINANCE CORPORATION

Della di Zarrone /DATE: 4/15/13

formal hearing was held in this case on October 23, 2012, in Tallahassee, Florida, before Administrative Law Judge Lawrence P. Stephenson of the Division of Administrative Hearings (“DOAH”). Petitioner and Florida Housing timely filed Proposed Recommended Orders.

After consideration of the evidence and arguments presented at hearing, and the Proposed Recommended Orders, the Administrative Law Judge (“ALJ”) issued a Recommended Order. A true and correct copy of the Recommended Order is attached hereto as “Exhibit A.” The ALJ recommended that Florida Housing issue a Final Order awarding Petitioner an allocation of low income housing tax credits from the next available allocation.

Pursuant to Section 120.57(1)(k), Florida Statutes, and Rule 28-106.217, Florida Administrative Code, Florida Housing timely filed “Respondent’s Exceptions to Recommended Order” (hereinafter “Exceptions”), a copy of which is attached hereto as “Exhibit B” and made a part hereof by reference. Petitioner subsequently filed its “Response to Respondent’s Exceptions to Recommended Order” (hereinafter “Response”), a copy of which is attached hereto as “Exhibit C.”

After a review of the entire record in this proceeding, the Board makes the following findings and rulings:

RESPONDENT'S EXCEPTIONS

1. Respondent Florida Housing's Exceptions to Conclusion of Law No. 48 of the Recommended Order, and to the Recommendation of the Recommended Order, as being contrary to the uncontroverted facts in the Record, are not well taken.

2. The facts set forth in the Recommended Order make clear that the "CBD-2" zoning category at issue in Application No. 2011-106C was not in effect at any time material to the 2011 Universal Application Cycle; that at all times material the parcel at issue was zoned "DC-1." However, under R. 67-48.004(6 and 9), the facial inconsistency created by the reference to "CBD-2" zoning on the map attached to the letter dated February 27, 2012, from the Zoning Official for the City of St. Petersburg, cannot be ignored.

3. Because of this inconsistency, the MLF Towers Application, No. 2011-106UC, should have been rejected. *See, Twin Lakes of Lakeland LLLP v. Florida Housing Finance Corporation*, FHFC Case No. 2012-005UC (Final Order June 8, 2012).

RULING ON RESPONDENT'S EXCEPTIONS

Respondent's Exceptions to the Recommended Order are not adopted.

RULING ON THE RECOMMENDED ORDER

1. The findings of fact set out in the Recommended Order are supported by competent substantial evidence.

2. The conclusions of law in the Recommended Order are supported by competent substantial evidence.

ORDER

In accordance with the foregoing:

1. The Findings of Fact of the Recommended Order are adopted as Florida Housing's Findings of Fact and incorporated by reference as though fully set forth in this Order.

2. The Conclusions of Law in the Recommended Order are adopted as Florida Housing's Conclusions of Law and incorporated by reference as though fully set forth in this Order.

3. The Recommendation of the Recommended Order is adopted.

IT IS HEREBY FOUND AND ORDERED that Florida Housing erred in its scoring of MLF Towers' Application No. 2011-106C, and that Petitioner Landings at Cross Bayou, LLLP, is entitled to an award of Low Income Housing Tax Credits from the next available allocation.

DONE and ORDERED this 15th day of MARCH, 2013.



FLORIDA HOUSING FINANCE
CORPORATION

By: _____
Chair

Copies to:

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NOTICE OF RIGHT TO JUDICIAL REVIEW

A PARTY WHO IS ADVERSELY AFFECTED BY THIS FINAL ORDER IS ENTITLED TO JUDICIAL REVIEW PURSUANT TO SECTION 120.68, FLORIDA STATUTES. REVIEW PROCEEDINGS ARE GOVERNED BY THE FLORIDA RULES OF APPELLATE PROCEDURE. SUCH PROCEEDINGS ARE COMMENCED BY FILING ONE COPY OF A NOTICE OF APPEAL WITH THE AGENCY CLERK OF THE FLORIDA HOUSING FINANCE CORPORATION, 227 NORTH BRONOUGH STREET, SUITE 5000, TALLAHASSEE, FLORIDA 32301-1329, AND A SECOND COPY, ACCOMPANIED BY THE FILING FEES PRESCRIBED BY LAW, WITH THE DISTRICT COURT OF APPEAL, FIRST DISTRICT, 300 MARTIN LUTHER KING, JR., BLVD., TALLAHASSEE, FLORIDA 32399-1850, OR IN THE DISTRICT COURT OF APPEAL IN THE APPELLATE DISTRICT WHERE THE PARTY RESIDES. THE NOTICE OF APPEAL MUST BE FILED WITHIN THIRTY (30) DAYS OF RENDITION OF THE ORDER TO BE REVIEWED.